

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

REGINALD HEARD) NO. 5:21-CV-00076-EEF-KDM
)
)
VERSUS) JUDGE ELIZABETH E. FOOTE
)
)
AMIN CARTER AND USA TRUCKING, INC.) MAG. JUDGE KAYLA D. MCCLUSKY
)
) JURY TRIAL

ANSWER TO COMPLAINT

NOW INTO COURT through undersigned counsel comes, USA TRUCK, INC., who answers the Complaint (Doc 1.) filed on behalf of Plaintiff, Reginald Heard, as follows:

1.

The allegations contained in Paragraph 1 of the Complaint are denied for lack of sufficient information to justify a belief therein.

2.

The allegations contained in Paragraph 2 of the Complaint are denied, except that the allegations which pertain to Amin Carter are denied for lack of sufficient information to justify a belief therein.

3.

The allegations contained in Paragraph 3 of the Complaint are admitted insofar as it is admitted that there is complete diversity between the parties and that Plaintiff has pleaded damages in excess of \$75,000; however, Defendant denies any liability whatsoever and denies that Plaintiff is entitled to damages.

4.

The allegations contained in Paragraph 4 of the Complaint are admitted insofar as it is admitted that Plaintiff filed his lawsuit in a proper venue.

5.

The allegations contained in Paragraph 5 of the Complaint are denied for lack of sufficient information to justify a belief therein.

6.

The allegations contained in Paragraph 6 of the Complaint are denied for lack of sufficient information to justify a belief therein.

7.

The allegations contained in Paragraph 7 of the Complaint are denied for lack of sufficient information to justify a belief therein.

8.

The allegations contained in Paragraph 8 of the Complaint are denied.

9.

The allegations contained in Paragraph 9 of the Complaint are denied.

10.

The allegations contained in Paragraph 10 of the Complaint are denied.

11.

The allegations contained in Paragraph 11 of the Complaint are denied.

12.

The allegations contained in Paragraph 12 of the Complaint are denied.

13.

The allegations contained in Paragraph 13 of the Complaint are denied.

14.

The allegations contained in Paragraph 14 of the Complaint are denied.

15.

The allegations contained in Paragraph 15 of the Complaint are denied.

16.

The allegations contained in Paragraph 16 of the Complaint are denied.

17.

The allegations contained in Paragraph 17 of the Complaint are denied.

18.

The allegations contained in Paragraph 18 of the Complaint are denied.

AND NOW FURTHER ANSWERING the Complaint, Defendant, USA Truck, Inc.,

submits the following:

AFFIRMATIVE DEFENSES

19.

The accident and/or Plaintiff's alleged damages were caused or contributed by acts or omissions on the part of Plaintiff or third-parties for whom Defendant cannot be responsible or liable.

20.

Defendant asserts the provisions of Louisiana Civil Code Articles 2323 and 2324 for assessment of fault against all persons and entities whose actions in any way contributed to Plaintiff's alleged injuries and damages, which alleged injuries and damages are specifically denied, which will either serve as a complete bar to recovery against Defendant, or in the alternative, for which Plaintiff's recovery against Defendant should be appropriately reduced.

21.

Defendant avers that if it should be found liable for Plaintiff's alleged injuries and damages, all of which are specifically denied, then any recovery by Plaintiff should be barred or appropriately reduced by Plaintiff's failure to mitigate his damages.

22.

Any injuries and damages allegedly sustained by Plaintiff, which are at all times herein denied, are the result of pre-existing conditions, the origin and subsequent repair of which did not arise out of, result from, or relate to the accident at issue herein.

23.

Defendant avers that the injuries and damages allegedly sustained by Plaintiff, which injuries and damages are specifically denied, pre-existed the incident described herein, which will either serve as a complete bar to recovery against Defendant, or in the alternative, for which Plaintiff's recovery against Defendant should be appropriately reduced.

24.

Defendant avers that the injuries and damages allegedly sustained by Plaintiff, which injuries and damages are specifically denied, were incurred by Plaintiff as a result of a separate, intervening and/or superseding event, and such separate, intervening and/or superseding event

will either serve as a complete bar to recovery against Defendant, or in the alternative, for which Plaintiff's recovery against Defendant should be appropriately reduced.

25.

Defendant avers that Defendant is entitled to a credit and/or set off for any and all payments made to or on behalf of Plaintiff by any person or entity and expressly plead extinguishment of any obligation due to Plaintiff to the full extent of any such payments.

26.

Defendants assert that, pursuant to the Sudden Emergency Doctrine, it is not guilty of fault or negligence because Amin Carter found himself in a position of imminent peril, without sufficient time to consider and weigh all the circumstances or the best means to adopt in order to avoid an impending danger that was not brought about by his own negligence.

27.

Defendant asserts that the action against USA Truck, Inc. has prescribed pursuant to La. Code Civ. P. art. 3492, which establishes a prescriptive period of one year for delictual actions.

28.

Defendant reserve the right to amend this answer setting forth additional affirmative defenses and/or file incidental demands as discovery is ongoing and as the facts may later disclose and require.

29.

JURY DEMAND

Defendant hereby requests a trial by jury of this matter on all issues triable by jury.

WHEREFORE, Defendant, USA Truck, Inc., prays that this Answer to the Complaint be deemed good and sufficient, and that after due proceedings are had, there be judgment herein

in favor Defendant, USA Truck, Inc., and against Plaintiff, dismissing with prejudice the Complaint filed on behalf of Plaintiff, with an award to the Defendant of its costs, and for all other general and equitable relief as the justice and nature of this cause may require and permit.

Defendant further prays that all issues triable by jury in this matter be tried before a civil jury.

Respectfully submitted,

/s/ Trent P. Roddy

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**ATTORNEYS FOR DEFENDANTS,
USA TRUCK, INC. AND AMIN CARTER**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading has been delivered to all counsel of record, either through the CM/ECF system, depositing a copy of same in the United States mail, first class postage prepaid, by hand delivery or by facsimile transmission, this **16th day of August, 2021**, at their last known address of record.

/s/ Trent P. Roddy

TRENT P. RODDY